

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-34171
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 1, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on October 1, 2009.

ISSUE

Were the claimant's FAP benefits properly placed into closure for a failure to provide verifications?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was an FAP recipient in Wayne County.
- (2) Claimant was a simplified reporter, meaning he only had to report changes if his income rose over a certain amount.

- (3) Claimant reported that he had stopped working on June 30, 2009, due to medical leave, which was verified by his employer.
- (4) In July, 2009, the Department was notified via an AFF report that claimant, who had been receiving unemployment benefits, was no longer receiving these benefits.
- (5) On July 11, 2009, claimant's caseworker sent a DHS-38, Employment verification, to claimant's employer, to find out if claimant returned to work.
- (6) Claimant's employer sent the DHS-38 back to the Department on July 20, 2009, and stated that while claimant was unemployed, he was currently off from work and receiving disability payments.
- (7) The Department testified at hearing that a DHS-3503, Request for Verifications was sent to claimant requesting the amount of these disability payments; however, no DHS-3503 was ever presented or produced as evidence.
- (8) On July 29, 2009, claimant was sent a Notice of Case Action, stating that his FAP benefits would be terminated for a failure to report or provide verification of his disability benefits.
- (9) Claimant's caseworker never received these verifications, and claimant's case was placed into closure on August 11, 2009.
- (10) On August 17, 2009, claimant requested a hearing, alleging that he had submitted all requested verifications.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of

Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A client must report any changes affecting benefit eligibility within 10 days. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. All sources of income must be verified. BEM 500. Furthermore, for FAP purposes, only changes that result in a benefit increase or when change information is unclear, inconsistent or questionable are required to be verified. BEM 500, 505. Finally, an application may be denied if the Department is unable to determine eligibility. BAM 130.

The Department argued that they were unable to determine claimant's eligibility, as they had never been told the dollar amount that claimant's disability checks were for. While claimant was a simplified reporter, given that the Department had no idea if the checks increased claimant's income beyond the limits for simplified reporting, the undersigned is of the belief that the Department would be within the limits set by policy if it had requested the information from the claimant. The Department had no idea of the exact range of claimant's income during the time period in question, and for that reason, would have trouble determining eligibility.

However, the Department has provided no proof that it actually requested this information. Normally, such information is requested through a DHS-3503, Request for Verification. The Department was unable to provide any evidence that this form was sent to claimant, and they were unable to provide any evidence that they requested the information from

the claimant in another manner. In order to place a case into closure for a failure to return verifications, the Department must provide evidence that it requested those verifications in the first place. There is no evidence that this was done, and the claimant cannot be held accountable for an action he was unaware that he was supposed to perform. Therefore, the Department was in error when it started benefit termination proceedings.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to cut-off claimant's FAP benefits for a failure to return verifications was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is **ORDERED** to restore claimant's FAP benefits retroactive to the date of termination. Should there still remain questions with regards to claimant's eligibility, the Department is further **ORDERED** to notify the claimant of the information it requires to determine eligibility.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/29/09

Date Mailed: 10/30/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

RJC/dj

cc:

